IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2435 OF 2005

Patandin Mishra Chawls Welfares Committee (Regd.) .. .. Petitioners

Versus

State of Maharashtra and Ors. .. Respondents

Mr.Pratap N.G.Shukla for petitioners
Mr.Milind Mane,AGP for respondent nos.1 and 3

CORAM : P.V.KAKADE, J.

DATE : 7TH DECEMBER, 2005

P.C.:

1. Heard the learned counsel for both sides.

2. Rule, rule is made returnable forthwith by consent.

3. The petitioners have filed this petition seeking direction to quash and set aside the impugned order dated 11.5.2005 passed by President, Maharashtra Slum Area (I.C.& R.) Tribunal, Mumbai in Appeal No.68 of 2001.

4. In the said appeal the present respondents challenged the slum area declaration vide notification

bearing NO.DCA/ENC/WS-2/SR-458 dated 20.12.2000 published in the Maharashtra Government Gazette dated 18.1.2001 in respect of their property comprised in C.T.S. No.215 (part) situated at village Mogra, Taluka Andheri, M.S.D. Mumbai admeasuring 650 sq. mtrs on various grounds.

. After hearing both the parties the learned President of the Tribunal came to the conclusion that the competent authority under the said statute had acted in contravention of the rules and regulations and the said slum area declaration vide notification dated 20.12.2000 published in the Maharashtra Government Gazette dated 18.1.2001 was liable to be quashed. It is pointed out on behalf of the petitioners that the learned President of the Tribunal did not take into account various aspects which had bearing on the issues involved and therefore, the impugned order dated 11.5.2004 is liable to be quashed. It was submitted on behalf of the State that they had no objection if the matter is remanded for adjudication afresh to the Appellate Tribunal with direction to dispose of the matter in time bound programme. Therefore, without further elaboration and taking into consideration the

circumstances, I note that I am satisfied that the adjudication of the appeal by the Tribunal requires fresh adjudication taking into account various aspects, which had not done by the learned Tribunal.

5. Hence, the impugned order dated 11.5.2004 passed by the Tribunal is hereby set aside and the matter is remanded to the Tribunal for adjudication afresh after giving opportunity to both sides to lead evidence, if any, on merits. The Tribunal shall make all endeavour to dispose of the matter on merits within three months from the date of receipt of Writ of this Court. It is clarified that all the issues and contentions which are raised by both the parties are left open for consideration by the Tribunal. With these directions the petition stands disposed of with no order as to costs. Rule stands discharged.